ED 373 207 CE 067 041

TITLE Legal Issues. Unit 12. Level 1. Instructor Guide. PACE: Program for Acquiring Competence in Entrepreneurship. Third Edition. Research & Development Series No. 301-12.

INSTITUTION Ohio State Univ., Columbus. Center on Education and Training for Employment.

PUB DATE 94

NOTE 21p.; For the complete set, i.e., 21 units, each done at three levels, see CE 067 029-092. Supported by the International Consortium for Entrepreneurship Education, the Coleman Foundation, and the Center for Entrepreneurial Leadership Inc.

AVAILABLE FROM Center on Education and Training for Employment, 1900 Kenny Road, Columbus, OH 43210-1090 (order no. RD301-12, IG, instructor guide $4.50; RD3012M, student module, $3; student module sets, level 1--RD301M, level 2--RD302M, level 3--RD303M, $45 each; instructor guide sets, level 1--RD301G, level 2--RD302G, level 3--RD303G, $75 each; 3 levels and resource guide, RD300G, $175).

PUB TYPE Guides - Classroom Use - Teaching Guides (For Teacher) (052) -- Guides - Classroom Use - Instructional Materials (For Learner) (051)

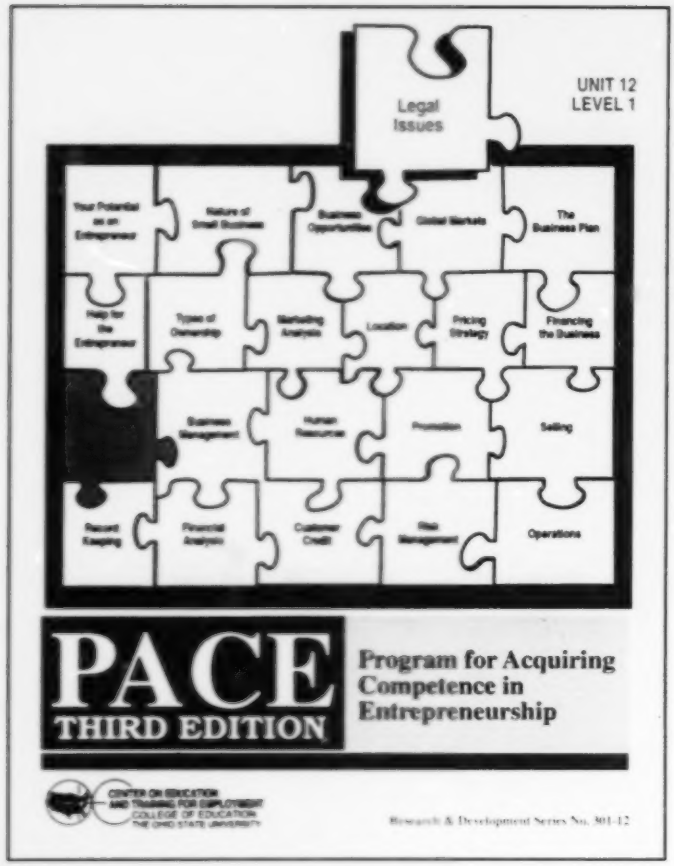
EDRS PRICE MF01/PC01 Plus Postage.

DESCRIPTORS Behavioral Objectives; *Business Education; *Competency Based Education; Compliance (Legal); *Contracts; Copyrights; *Entrepreneurship; Learning Activities; Legal Problems; *Legal Responsibility; Ownership; Patents; Postsecondary Education; Secondary Education; *Small Businesses; Student Evaluation; Teaching Guides

IDENTIFIERS *Program for Acquiring Competence Entrepreneurship

ABSTRACT

This instructor guide for a unit on legal issues in the PACE (Program for Acquiring Competence in Entrepreneurship) curriculum includes the full text of the student module and lesson plans, instructional suggestions, and other teacher resources. The competencies that are incorporated into this module are at Level 1 of learning--understanding the creation and operation of a business. Included in the instructor's guide are the following: unit objectives, guidelines for using PACE, lists of teaching suggestions for each unit objective/subobjective, model assessment responses, and overview of the three levels of the PACE program. The following materials are contained in the student's guide: activities to be completed in preparation for the unit, unit objectives, student reading materials, individual and group learning activities, case study, discussion questions, assessment questions, and references. Among the topics discussed in the unit are the following: ways laws affect the operation of small businesses; the importance of legal issues and learning about the law; contracts and their importance; agreements; the concepts of consideration, capacity, legality, and mutuality of consent; and ways business ideas can be protected. (MN)



Objectives:

- Define how laws affect the small business operation.
- Discuss the importance of government rules and regulations.
- Define the term "contracts".
- Identify the components of a contract.
- Discuss the importance of a contract.
- Define patents, copyrights, and trademarks.

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

INSTRUCTOR GUIDE

Unit 12

Legal Issues

Level 1

HOW TO USE PACE

- Use the objectives as a pretest. If a student is able to meet the objectives, ask him or her to read and respond to the assessment questions in the back of the module.
- Duplicate the glossary from the *Resource Guide* to use as a handout.
- Use the teaching outlines provided in the *Instructor Guide* for assistance in focusing your teaching delivery. The left side of each outline page lists objectives with the corresponding headings (margin questions) from the unit. Space is provided for you to add your own suggestions. Try to increase student involvement in as many ways as possible to foster an interactive learning process.
- When your students are ready to do the *Activities*, assist them in selecting those that you feel would be the most beneficial to their growth in entrepreneurship.
- Assess your students on the unit content when they indicate they are ready. You may choose written or verbal assessments according to the situation. Model responses are provided for each module of each unit. While these are suggested responses, others may be equally valid.

BEST COPY AVAILABLE

Objectives	Teaching Suggestions
1. DEFINE HOW LAWS AFFECT THE SMALL BUSINESS OPERATION	
How do laws affect the operation of a small business?	On a chalkboard or overhead, list and discuss the major laws affecting small business.
2. DISCUSS THE IMPORTANCE OF GOVERNMENT RULES AND REGULATIONS	
Why are legal issues important?	Break into small groups, have each group discuss the concept of business ethics as it relates to the laws governing small business. Reconvene the class and facilitate a group discussion using ideas generated in the small groups.
3. DEFINE THE TERM "CONTRACT" AND DISCUSS ITS IMPORTANCE	
What is a contract?	Have the class offer ideas relating to how their lives are affected by different types of contracts.
4. IDENTIFY THE COMPONENTS OF A CONTRACT	
What makes a contract legally enforceable?	Discuss the five essential components of a contract. The discussion should address each separately *and* how they relate to each other to form the makeup of a legally enforceable contract.
What is an agreement?	
What is consideration?	
What is capacity?	
What is legality?	
What is mutuality of consent?	

Objectives	Teaching Suggestions
5. DEFINE PATENTS, COPYRIGHTS, AND TRADEMARKS	
How can business ideas be protected?	Task the class with gathering samples from the popular media (i.e., newspaper, magazines, general advertisements) of trademarks and/or service marks.
Why learn about the law?	Discuss with the class the ramifications of being unaware of the laws and regulations that affect small business. Highlight the fact that it does not pay to take shortcuts when it comes business laws. The risks are too great.

MODEL ASSESSMENT RESPONSES

1. Failure to obey rules and regulations can ruin a business. Contracts are guided by many rules and regulations and most business transactions involves a contract. Each creates a specific legal issue that must be dealt with.

2. The operations of a small business cannot help but be affected by laws. Every aspect of small business from beginning to end is regulated by laws. This is why an entrepreneur must know where to go to get legal advice when the need arises.

3. A contract is an arrangement regarding mutual responsibilities between two or more parties that is legally enforceable.

4. The five essential elements of a contract are: (1) *Agreement* is the foundation of a contract. An agreement starts with an *offer*, followed by *acceptance*, and ending with *a reasonable definite understanding*. (2) *Consideration* describes the exchange of something valuable between the parties to a contract. (3) *Capacity* is the ability to clearly understand the terms and scope of the contract. (4) *Legality* (or *legal purpose*) refers to the stipulation that all aspects of the contract must be legal. Courts will not enforce an illegal contract. (5) *Mutuality of consent* means that the parties to a contract know and understand the terms of the contract and freely enter into it.

5. A *patent* provides the exclusive rights to the inventor to make, use, or sell their invention. Patents may be obtained on new products, industrial or technical processes, machines designs, or other items involved in the process of doing business.

   Copyrights protect printed material such as literary and artistic. Copyrights are effective for the life of the author plus an additional fifty years.

   A *trademark* is a word, name, symbol, device (design), or a combination of these items that are used to identify a product.

PACE
THIRD EDITION

Program for Acquiring Competence in Entrepreneurship

Incorporates the needed competencies for creating and operating a small business at three levels of learning, with experiences and outcomes becoming progressively more advanced.

Level 1 — Understanding the creation and operation of a business.
Level 2 — Planning for a business in your future.
Level 3 — Starting and managing your own business.

Self-contained **Student Modules** include: specific objectives, questions supporting the objectives, complete content in form of answers to the questions, case studies, individual activities, group activities, module assessment references. **Instructor Guides** include the full text of each student module and lesson plans, instructional suggestions, and other resources. **PACE, Third Edition, Resource Guide** includes teaching strategies, references, glossary of terms, and a directory of entrepreneurship assistance organizations.

For information on PACE or to order, contact the Publications Department at the
Center on Education and Training for Employment, 1900 Kenny Road, Columbus, Ohio 43210-1090
(614) 292-4353, (800) 848-4815.

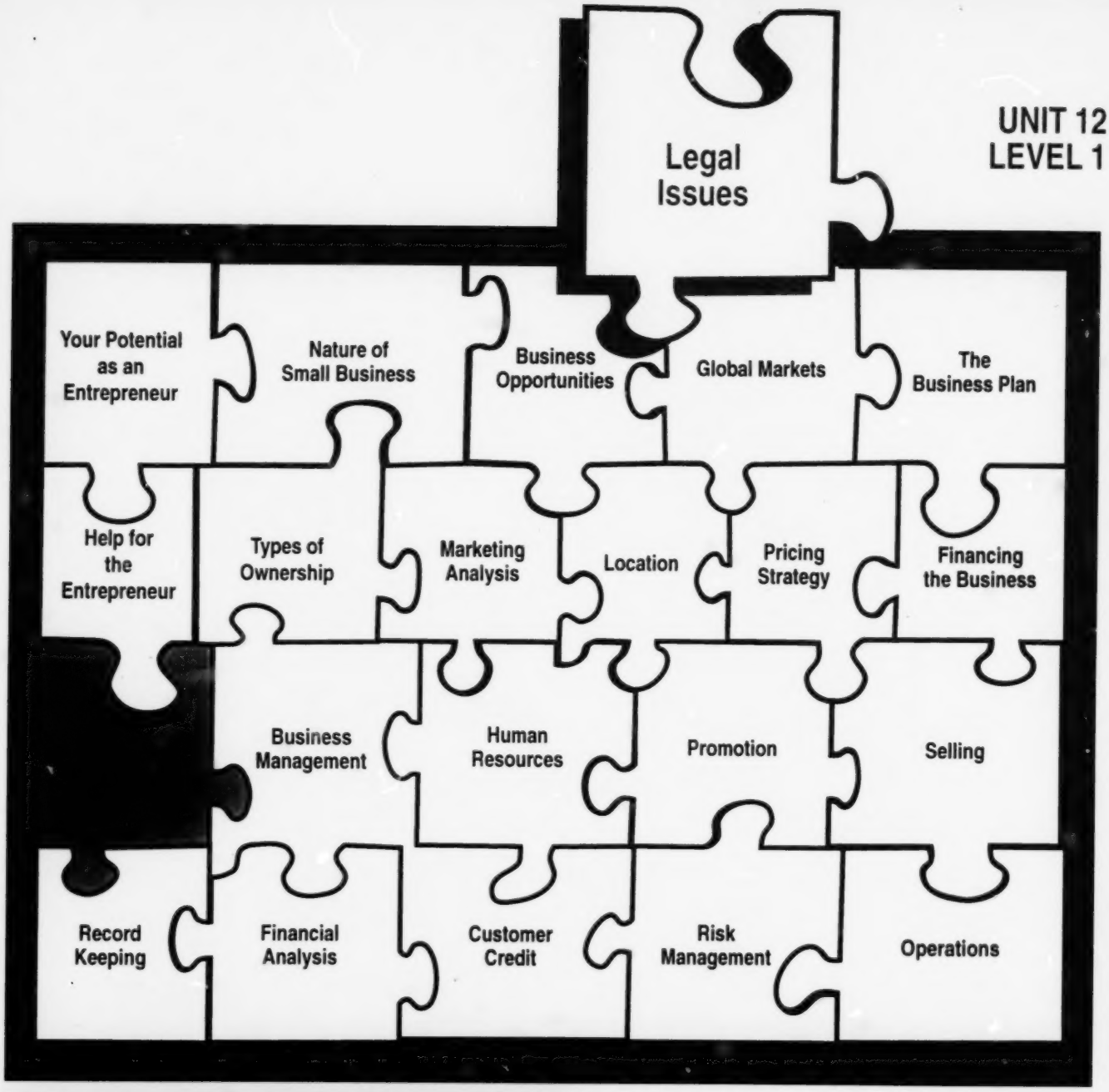
Support for **PACE, Third Edition** provided in whole or in part by:

International Consortium for Entrepreneurship Education
and
International Enterprise Academy
Center on Education and Training for Employment
The Ohio State University

The Coleman Foundation

Center for Entrepreneurial Leadership Inc.
Ewing Marion Kauffman Foundation

UNIT 12
LEVEL 1



PACE
THIRD EDITION

Program for Acquiring Competence in Entrepreneurship

CENTER ON EDUCATION AND TRAINING FOR EMPLOYMENT
COLLEGE OF EDUCATION
THE OHIO STATE UNIVERSITY

Research & Development Series No. 301-12

LEGAL ISSUES

BEFORE YOU BEGIN . . .

1. Consult the *Resource Guide* for instructions if this is your first PACE unit.

2. Read What are the Objectives for this Unit on the following page. If you think you can meet these objectives now, consult your instructor.

3. Look for these business terms as you read this unit. If you need help with the meanings, ask your instructor for a copy of the PACE Glossary contained in the *Resource Guide*.

Agreement
Consideration
Contract
Contractual capacity
Copyright
Duress
Equal opportunity/Anti discrimination laws
Fraud
Lawsuit
Legally enforceable
Misrepresentation
Mutuality of consent
Party to a contract
Patent
Reasonable definite understanding
Service mark
Trademark
Usury

Copyright © 1994, Center on Education and Training for Employment, The Ohio State University. All rights reserved.

LEGAL ISSUES

WHAT ARE THE OBJECTIVES FOR THIS UNIT?

Upon completion of this unit you will be able to—

- discuss how laws affect the small business operation,
- discuss the importance of government rules and regulations,
- define the term "contract" and discuss its importance,
- identify the components of a contract, and
- define patents, copyrights, and trademarks.

WHAT IS THIS UNIT ABOUT?

There are many laws and regulations that affect the way business is done. Small business owners must understand a variety of legal issues in order to avoid breaking the law. Small business owners who break the law may face lawsuits from those they injure and in some cases fines or jail time.

This unit is designed to help you understand the legal issues that small business owners face. When you have completed this unit you will be able to answer the following questions: Why are government rules and regulations important? How do laws affect the way small businesses operate? What is a contract? Why are contracts important? What are patents, copyrights, and trademarks?

Completing this unit will familiarize you with the basic legal issues facing the small business owner. You will not become a legal expert, but you will know when you should get professional help with problems involving legal issues.

Two other PACE units deal with legal issues. They are titled *Types of Ownership* and *Help for the Entrepreneur*. These units, along with this one, prepare you to understand and deal with the legal issues faced by small business owners.

4

HOW DO LAWS AFFECT THE OPERATION OF A SMALL BUSINESS?

Much of an entrepreneur's time is spent dealing with legal issues. When the business is first started the entrepreneur must get the required licenses, file for ownership paperwork if the entrepreneur chooses to form a partnership or corporation, and comply with securities laws if the entrepreneur sells stock or partnership interests in the business. Each of these areas is regulated by laws.

Small businesses are affected by many laws. Some of the laws affecting businesses are as follows:

- Contract laws
- Tax laws
- Worker safety laws
- Lending and credit regulations
- Sales laws
- Labor laws
- Real estate laws
- License laws
- Consumer protection laws
- Equal opportunity (anti-discrimination) laws

After the business is started the entrepreneur will continue to face legal issues almost daily. Contracts are made with suppliers and customers. Taxes are collected and paid. People may be injured by activities of the business. Employees are hired and fired. Property is either bought or leased. All these areas and more are governed by laws and regulations.

Laws even affect entrepreneurs when they decide to go out of business. Agreements with suppliers, customers and landlords may be broken. Taxes may be owed. Employees may be owed wages. All of these areas are potential sources of legal problems.

It is not necessary for the small business owner to be an expert in all areas of business law. However, it is important that entrepreneurs recognize situations that create potential legal problems. When entrepreneurs identify a situation that presents a legal issue, they should seek advice from a qualified attorney.

WHY ARE LEGAL ISSUES IMPORTANT?

Laws and regulations make business easier to do. Business transactions are more predictable and safer. For example, without banking laws it would be impossible for customers to pay for goods and services with checks or credit cards. Laws and government regulations make the banking system work. This allows people to use bank services such as checking accounts and credit cards.

Tax laws are needed to raise money for government services. These services include building roads, establishing telephone and television regulations, providing police and fire protection, and building schools, just to name a few. Without these important government services it would be almost impossible to do business.

Business owners, employees, and consumers also benefit from various laws. Antitrust laws prevent big companies from driving small businesses out of business. Workers benefit from workplace safety rules and minimum wage laws. Consumers are protected against false advertising and defective products. As you can see from the above examples, laws and regulations are an important part of the business system. Every business person gets the benefit of the system. Everyone must also obey the laws so the system will work. Everyone must learn and understand the laws that affect them so that they can obey the law.

Failure to obey the law can ruin a business. Breaking the law usually results in producing unhappy customers, suppliers, and employees. Many times those who have been harmed will start lawsuits against the entrepreneur who broke the law. In some cases there may be a criminal penalty for not following a law or regulation. In these cases, violating the law could land the business owner in jail or he or she could be fined. It is good business to know the law and obey it.

In day-to-day business operations, entrepreneurs must deal with a variety of activities that involve business law. Contracts, which are made in most business transactions, present legal issues to the entrepreneur everyday.

WHY LEARN ABOUT THE LAW?

The law is very complex. Most entrepreneurs will have to hire an attorney to get advice on how the law affects their business. So why learn about the law?

It is important for every entrepreneur to learn about the law. Therefore, many of their business activities involve the law. Things such as hiring employees, paying taxes, and using contracts to buy and sell goods and services directly involve laws or regulations. An active business person encounters hundreds of legal situations a day.

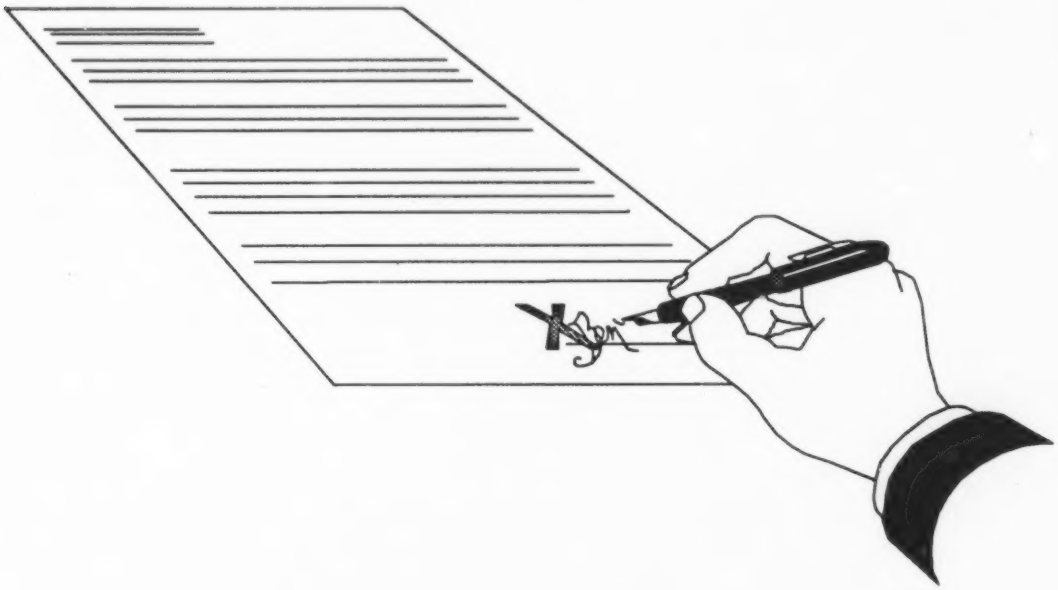
Knowing about the law helps in two ways. Firstly, it allows a business person to identify issues that involve the law. Knowing that an issue may involve special legal concerns helps an entrepreneur know when to seek advice from an attorney, accountant or other source of assistance.

Secondly, it helps them deal with their attorney or accountant more effectively. If a legal issue is minor, they may be able to handle it without much help. If it is a more complex issue they will know what questions to ask when they seek assistance. This helps them get better advice.

WHAT IS A CONTRACT?

A *contract* is an agreement between two or more people that is *legally enforceable.* The people making a contract are called *parties.* Each *party to a contract* must do something.

For example, the owner of a paint shop enters into an agreement to buy 200 cartons of paper from the local supplier for $1,000. This agreement involves two major promises. The print shop owner has promised to pay $1,000 to the paper supplier, and the paper supplier has promised to deliver 200 cartons of paper to the print shop owner. If either party does not do what was promised, he or she can be sued by the other party.



WHY ARE CONTRACTS IMPORTANT?

Contracts are a very important part of any business. All the major buying and selling that a business does involves entering into contracts. The contracts control how the business runs. For example, when the print shop owner buys paper, the company may give him 30 days to pay the supplier. This gives the print shop owner time to sell the paper to customers to get the money to pay for the paper. The print shop owner has used the contract to help his cashflow.

WHAT MAKES A CONTRACT LEGALLY ENFORCEABLE?

Courts will only enforce contracts that have five essential components. These five components are—

- agreement,
- consideration,
- capacity,

- legality, and

- mutuality of consent.

Business owners use contracts almost everyday in the business. It is very important for them to understand how to make an enforceable contract. The sections of this unit explain the five essential components of a contract. The key concepts that a small business owner should understand about each component are emphasized.

WHAT IS AN AGREEMENT?

An *agreement* is the foundation of a contract. When agreement exists the parties are on their way to entering into a contract. If no agreement is reached, there can be no contract. There are three steps to reaching agreement. First, there is an *offer*. The offer must be stated in a reasonable clear manner and it must be communicated to the other party. Then, there must be *acceptance* of the offer. This occurs when the party who has received an offer agrees to it. Lastly, the offer and acceptance must create a *reasonable definite understanding* between the parties. This happens if the offer and acceptance include enough details so that a stranger knows what each party to the contract is supposed to do.

Let's look at agreement in the paper purchase example. The contract negotiations were started when the supplier's saleswoman, Danzel, met with Martin to discuss selling Martin some paper. Martin looked through the paper company's catalog. He told Danzel he needed 200 cartons of white copier paper. Danzel said her company would sell him the 200 cartons he needed for $1,000. She said the paper would be delivered in 10 days. The $1,000 payment for the paper would have to be made within 10 days after the paper was delivered. This was the offer by Danzel to Martin.

Martin liked the deal offered by Danzel. He agreed to it. This is called *acceptance*. Martin accepted Danzel's offer. Danzel wrote down the *terms of the contract* on an order form. Martin signed the order form to show that he accepted the terms of the contract.

The understanding must also be *reasonable and definite*. The terms of the above deal included—

- the type of paper was being bought,

- when the paper was to be delivered,

- the quantity of paper involved,

- how much the paper cost, and

- when the amount was to be paid.

The terms covered all the important items involved in the sale. The understanding that was reached by Danzel and Martin was reasonable and definite.

Danzel and Martin have reached an agreement. There was an offer. The offer was accepted. The offer and acceptance created an understanding that was reasonable and clear. Since all three steps were completed, there was agreement.

Remember, reaching agreement is only the first step to forming a contract. All five components must be present for a contract to be made.

WHAT IS CONSIDERATION?

Both sides to a contract must give *consideration*. If they do not, the contract is not valid. Consideration is a legal term. It means that there has been an exchange of something valuable between the parties to a contract. Consideration can be material, such as money or goods. It can also be a promise, such as a promise to paint someone's house. It is necessary that both sides give something of value.

There was consideration in the paper purchasing example. Martin promised to pay Danzel $1,000 in exchange for Danzel's promise to deliver 200 cartons of paper to his print shop. They exchanged a promise for a promise.

The consideration could have been material instead of a promise. If Danzel had 200 cartons of paper in her car she could have given them to Martin. In exchange Martin could have paid her $1,000 right away. This would also have been good consideration.

WHAT IS CAPACITY?

Even if there is agreement and consideration, there may not be a contract. The parties must have had the *capacity* to enter into a contract. For parties to have the capacity to enter into a contract, they must be able to understand what they are doing. Most adults have the capacity to enter into a contract.

By law, minors generally do not have the capacity to enter into a contract. Minors are people under the age of 18 in most states. If minors enter into a contract, they can get out of it because they lack the capacity to enter into it.

Adults who are intoxicated or insane also lack capacity to enter into contracts. Insane or intoxicated people usually do not understand what they are doing. Because they do not understand, the law lets them break contracts they enter into without having to pay a penalty. Small businesses should be very careful when making contracts with anyone who may lack capacity.

WHAT IS LEGALITY?

Contracts must have *legal purposes* in order to be enforceable. Courts will not help a party enforce a contract that is for an illegal purpose. If part of the contract involves something illegal, courts will not enforce the illegal part. The rest of the contract would be enforceable.

Let's look at some examples of illegal purposes. Contracts involving stolen property involve an illegal purpose. A court would not enforce a contract involving stolen property. Contracts that charge very high rates of interest involve an illegal purpose. Charging a very high rate of interest is called *usury*, it is illegal. For example, Penny borrows money from a bank to buy a house. The bank charges 100 percent

interest per year on the loan. This is usury. Courts will not make Penny pay the 100 percent interest on her loan.

WHAT IS MUTUALITY OF CONSENT?

Mutuality of consent means that the parties to a contract know and understand the terms to a contract and freely enter into it. There is no mutuality of consent if one of these is present:

- Fraud
- Misrepresentation
- Mistake
- Duress

Fraud and *misrepresentation* happen when one of the parties lies or only tells part of the truth to the other party. In the paper purchase example, Danzel could have committed fraud. She could have showed Martin a high-quality paper from Best Company and then delivered a lower quality paper but put it in Best Company boxes. This would have been fraud. If Danzel had done that, Martin could have voided the contract.

If the parties make a *mistake* about an important fact, the contract can be voided. Mistakes involving important facts do happen but not very often. Contracts are hardly ever unenforceable due to mistake.

Mutuality of consent is also absent if one of the parties to the contract is forced to enter into the contract with a threat. This is called *duress*. For example, suppose Danzel had told Martin that if he did not buy paper from her, she would burn his office down. That would be using duress to get Martin to enter into a contract. Even if Martin agreed, the contract would not be enforceable. There was no *mutuality of consent*.

Remember, all five elements of a contract must be present before there is an enforceable contract. If anyone of the elements is missing the contract is not enforceable.

HOW CAN BUSINESS IDEAS BE PROTECTED?

In the process of doing business, small business owners many times have an opportunity to originate a new idea for a product or process. If so, they may wish to take steps to protect their idea through *patents*, *trademarks*, *service marks*, or *copyrights*. Let's take a closer look at these items and see how they can be used to protect business ideas.

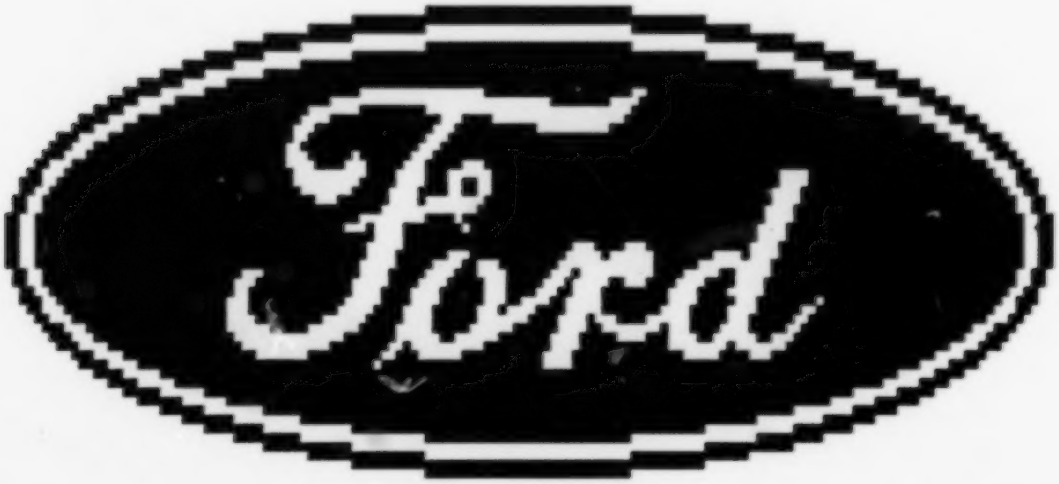
If an item is invented in the process of operating a business, it may qualify for a *patent*. Patents may be obtained on new products, industrial or technical processes, machines, designs, or other items involved in the process of doing business. A patent provides the exclusive rights to the inventor to make, use, or sell their particular invention for a period of years. On new devices, it is a 17-year period.

In order to qualify for a patent, an invention must be *new* and *unique*. It cannot simply be a reworked version of an existing idea.

10

If entrepreneurs invent a new and unique product or process, they should investigate protecting their invention by getting it patented. The process of getting a patent is very detailed and time consuming. Most inventors find it useful to hire a patent attorney or registered patent agent to help them through the process.

Like a trademark, a *service mark* is a word (or words), design (or designs), or combinations of word(s) and design(s) used to advertise services. A service mark helps customers to distinguish the services of one firm from those of another. These marks are used to advertise banking, real estate, motel, and other services. Through such advertising, prospective customers become aware of a firm's services. When they see the service mark, they associate it with a particular level of quality.



A *trademark* is a word, name, symbol, device (design), or a combination of these items that are used to identify a product. When a trademark is registered, that trademark is protected against use by others for a period of 20 years. The trademark is a device pointing directly to the origin or ownership of merchandise to which it is applied. The trademark is legally reserved to the exclusive use of the owner as maker or seller of the product. The "Golden Arches" symbol used by McDonald's restaurants is a good example of a trademark. No one else is allowed to use the "Golden Arches" because it is a registered trademark of McDonald's.

Printed material such as literary and artistic work is protected through *copyrights*. Copyrights are effective for the life of the author plus an additional 50 years. Small business owners may desire to copyright material used in advertising. For example, catalogs, brochures, or instruction sheets about products and services can be copyrighted.

ACTIVITIES

The following activities are designed to help you apply what you have learned in this unit.

INDIVIDUAL ACTIVITIES

A.

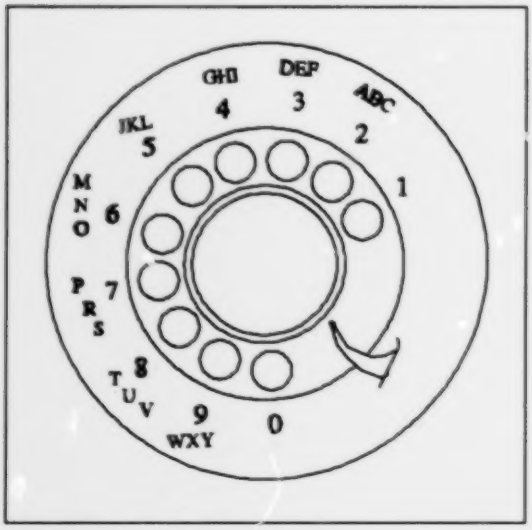
Look at advertisements in current issues of magazines, such as *Time*, *Newsweek* or *Sports Illustrated*. See if you can find at least three uses of trademarks, service marks and copyrights in advertisements. Look for the ™ mark to identify trademarks, ℠ to identify service marks and © to identify copyrights. What types of companies use trademarks? When are service marks used? What type of material is copyrighted?

B.

Test your understanding of the legal terms discussed in this unit. Use the numbers on the telephone dial to decode the following number codes. Each number code can be solved to spell a legal term found in this unit.

1. 247336368
2. 26687228
3. 2667433728466
4. 82543 83767
5. 87879
6. 22722489

Example: The code is 529. The number 5 could be J, K, or L. The number 2 could be A, B, or C. The number 9 could be W, X, or Y. Those letters can be put together to spell law.



After you have decoded the legal terms, match each of them to their definition below.

1. Ability to enter into a contract.
2. Understanding between the parties of a contract, meeting of the minds.
3. Charging excessively high interest rates.
4. An agreement made between two or more persons that is valid and enforceable by law.
5. Something of value that is exchanged between the parties to a contract.
6. Terms of a contract that are enforceable by law.

12

GROUP ACTIVITIES

A.

Divide the class into small groups of four to six people. Each group has two teams of two or three people. The teams will role play the situation described below.

Team I wants to buy 10 Model 5500 electronic cash registers. Team II is a wholesaler that has 10 Model 5500 electronic cash registers for sale. The list price on Model 5500s is $500 each. Companies buying more than 5 usually get a 10 percent discount.

The teams need to work together to negotiate a contract for team I to buy 10 cash registers from team II. Some of the terms you may want to discuss are as follows:

- Price
- Quantity
- Model
- Quantity discount
- How team I will pay (cash or credit)
- When the cash registers will be delivered

After a contract has been negotiated discuss whether all five elements of a contract were met. If so, identify how. If not, discuss why you think an element was missed.

B.

Divide into groups of four to eight people. Each group is to locate several articles on how laws and regulations affect small business. Good sources for this research are magazines such as *Business Week*, *Newsweek*, *Time*, and *Entrepreneur* which can be found at four local libraries.

Groups will meet to discuss their research and to discuss how laws and regulations affect small businesses. Use a flip chart to record the ideas of each group. Use flip charts to make a master list of the ideas generated by all of the groups.

CASE STUDY

A small business owner phoned a local office supply store and asked the following question: "How much do you want for 100 yellow legal pads and do you deliver?" The clerk consulted a price list and replied, "That would be $79.95 and we deliver for and additional charge of $10." The buyer replied, "I will pay $79.95, but the $10 delivery charge is unreasonable. Everyone else in town delivers for free." The clerk laughed and the buyer said, "Thanks," and they ended the phone conversation. The next day the legal pads were delivered to the buyer. The buyer did not accept them.

DISCUSSION QUESTIONS

1. Did the buyer and the clerk have a contract? If you think the answer is yes, explain why a contract existed. If no, explain why a contract was not reached and revise the phone conversation so that a contract is created.

2. What is a counteroffer? Can you find a counteroffer in the case? If so, state the counteroffer.

14

ASSESSMENT

Read the following questions to check your knowledge of the topics presented in this unit. When you feel prepared, ask your instructor to assess your competency on them.

1. Explain why governmental rules and regulations are important to small business owners.

2. Explain how laws affect the operation of a small business.

3. Define the term contract.

4. Name the five essential elements of a contract and describe what is meant by each.

5. Define patents, copyrights and trademarks.

REFERENCES

Adams P. *The Complete Legal Guide for Starting your Business.* New York, NY: John Wiley & Sons, 1982.

Buchholtz, R. *Business Environment and Public Policy.* Englewood Cliffs, NJ: Prentice Hall, 1986.

McAdams, T. *Law, Business and Society.* Homewood, IL: Irwin, 1992.

Scarbough, N., and Zimmerer, T. *Effective Small Business Management.* Columbus, OH: Merrill Publishing, 1991.

Siropolis, N. *Small Business Management.* Boston, MA: Houghton Mifflin Company, 1990.

Sturdivant, F. *Business and Society—A Managerial Approach.* Homewood, IL: Irwin, 1981.

U.S. Small Business Administration. *Introduction to Patents.* Management Aid No. 6.005. Washington, DC: U.S. Government Printing Office, 1988.

U.S. Small Business Administration. *Selecting The Legal Structure for your Business.* General Management Aid No. MP 25. Washington, DC: U.S. Government Printing Office, 1988.

PACE

Unit 1. Your Potential as An Entrepreneur
Unit 2. The Nature of the Small Business
Unit 3. Business Opportunities
Unit 4. Global Markets
Unit 5. The Business Plan
Unit 6. Help for the Entrepreneur
Unit 7. Types of Ownership
Unit 8. Marketing Analysis
Unit 9. Location
Unit 10. Pricing Strategy
Unit 11. Financing the Business
⇨ Unit 12. Legal Issues
Unit 13. Business Management
Unit 14 Human Resources
Unit 15. Promotion
Unit 16. Selling
Unit 17. Record Keeping
Unit 18. Financial Analysis
Unit 19. Customer Credit
Unit 20. Risk Management
Unit 21. Operations
Resource Guide
Instructor's Guide

Units on the above entrepreneurship topics are available at the following levels:

* Level 1 helps you understand the creation and operation of a business
* Level 2 prepares you to plan for a business in your future
* Level 3 guides you in starting and managing your own business